Chapter 5

The criminalisation of squatting

Discourses, moral panics and resistances in the Netherlands and England and Wales

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> What is philosophy if not a way of reflecting, not so much on what is true and what is false, as on our relationship to truth? . . . The movement by which, not without effort and uncertainty, dreams and illusions, one detaches oneself from what is accepted as true and seeks other rules – that is philosophy. The displacement and transformation of frameworks of thinking . . . to become other than what one is – that too, is philosophy.[1]

In both England and Wales and the Netherlands, squatting has recently been legislated against.[2] In most European countries squatting is illegal and considered either a crime against public order or a violation of private property rights. In England and Wales, the act of squatting in residential buildings was criminalised on 1 September 2012 and is punishable by a sentence of up to 51 weeks in prison and/or a fine of up to £5,000.[3] In the Netherlands, the act of squatting was made illegal by a new criminal law of 1 October 2010, punishable by up to two years in prison (or a fine).[4] These countries have had a history of civil regulation in regard to squatting, yet the use of criminal law is recent. In the Netherlands, the first formulation of the new law was vague and is being modified by means of legal battles between the state and squatters. Likewise in England and Wales, whilst there have already been convictions, there have been no appeals to date and thus precedents in law are yet to be set.

1 M Foucault, 'The Masked Philosopher' in J Faubion (ed) *Ethics: Subjectivity and Truth. The Essential Works of Michel Foucault 1954–1984*, vol one (trans Robert Hurley et al, Penguin, 1997).
2 Squatting is already a criminal offence in Scotland and Northern Ireland, so we cannot talk of the United Kingdom.
3 Under s144 Legal Aid, Sentencing and Punishment of Offenders Act 2012. For more details, see Chapter 2 in this volume .
4 Under Article 138a of Wet Kraken en Leegstand 2010. In the Netherlands, occupying an empty property was previously considered legal under certain conditions.

The process of criminalisation in the Netherlands and England and Wales has been twofold. On the one hand, it strictly related to the formulation of new criminal laws aimed at outlawing the practice of squatting as such. The result of these laws has been that a situation which was previously managed by means of civil proceedings between squatters and the owner has now become the direct responsibility of the government.[5] While before criminalisation local municipalities had autonomy in their policies towards squatters and the police were able to intervene only after a court judgment, the new law was explicitly aimed at protecting the interests of property owners, and at making the process of eviction less dependent on the juridical system, with the result that the police were granted more authority to act towards squatters.

On the other hand, the process went beyond so-called 'legislative criminalisation' and entailed the deployment of a multitude of discourses aimed at legitimising state and police abuses of authority. These discourses stigmatised, labelled and eventually defined not only the act of squatting but the squatter population as intrinsically criminal. This process has been aided by a moral panic constructed around the practice of squatting and the squatter population, which created indignation and fear of the squatter as the 'transgressive other'.[6]

Criminalisation is often understood as a top-down process, where those legislated against are seen as passive actors without political agency, yet in this case there has been a sustained production of discourses aimed not only at criminalising, but also at supporting the practice of squatting. Therefore, to understand this complex process, it is necessary to look not only at the juridical apparatuses, but also at the interplay between the different discourses mobilised to create and resist the 'regimes of truth'[7] around squatting.

Four meta-discourses can be identified both in England and Wales and in the Netherlands:

(1) 'reactive' discourses – promoting criminalisation and working against the practice of squatting;
(2) 'repressive' discourses – implementing the state's intention to criminalise squatting;

5   It is interesting to compare here the 2002 revision of the law governing adverse possession in England, in which 'the Law Commission's moral stance on urban squatters played an important role in excluding – and, for the future, avoiding – any further consideration of the arguments surrounding squatting and adverse possession': N Cobb and L Fox, 'Living Outside the System: The (Im)morality of Urban Squatting after the Land Registration Act 2002' in (2007) 27(2) *Legal Studies* 236–260.
6   S Cohen *Folk Devils and Moral Panics* (3rd edn, Routledge, 2002); ETC Dee, 'Creating squatters as folk devils: one aspect of the criminalisation of squatting in the England and Wales' (unpublished working paper, 2012); J Young, 'Moral Panics and the Transgressive Other' (2011) 7(3) *Crime, Media, Culture* 245–258.
7   A Foucauldian term which we will discuss further below.

(3) 'supportive' discourses promoting a positive image of squatters and attempting (for a variety of reasons) to support squatting against criminalisation;

(4) 'resistant' discourses – formulated by the activists themselves, designed to resist criminalisation.

These meta-discourses incorporate a multiplicity of threads,[8] which are drawn out by different actors depending upon their subject position. As we will see, these discourses themselves intertwine (for example, in the case of the Netherlands, the repressive and reactive discourses are indistinguishable), with each discourse also incorporating within itself a number of arguments from opposing viewpoints.

Reactive discourses can be examined in a number of ways. Regarding criminalisation in the Netherlands, Pruijt takes four explanatory tools: culture wars, revanchism, creative city and moral panic.[9] In this chapter the focus will be placed on the framework of moral panic, supported by Critical Discourse Analysis.[10] Supportive discourses also require close attention, since it is important to understand to what extent these discourses, whilst purportedly aimed at 'defending' squatters, eventually contributed in the production of a 'regime of truth' about squatting that not only might have enabled its criminalisation but also confined the possibilities for other discourses to emerge.

Ideological-discursive formations

The aim of this chapter is to understand the power that these discourses exercise, how they work, how they conflict and what effects they produce in terms of subjection and resistance. Norman Fairclough proposes Critical Discourse Analysis as a method designed to reveal connections between language, power and resistance.[11] Drawing on Foucault's work on the 'discursive formation', Fairclough discusses the role of language and discourse as tools of social control and power, and how language enables domination. Fairclough investigates the 'ideological-discursive formations' which exist within any institution as practices that 'arise out of and are ideologically shaped

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8 For example, in the case of England and Wales, it is possible to identify at least eight specific discourses. Whilst not an inclusive list, this would feature both negative and positive discourses around the issues of morality, cost, threat, property guardianship, responsibility, vulnerability/homelessness, anarchism and the occupation of millionaire's homes. See Dee (n6).

9 H Pruijt, 'Culture Wars, Revanchism, Moral Panics and the Creative City. A Reconstruction of a Decline of Tolerant Public Policy: The Case of Dutch Anti-squatting Legislations' (2012) 50(6) *Urban Studies* 1114–1129.

10 Cohen (n6); Dee(n6).

11 N Fairclough, *Language and Power* (Longman, 1989).

by relations of power and struggles over power'.[12] Fairclough's theoretical framework is informed also by Foucault's later work, which highlights how the production of discourses and knowledge around a subject enable its domination and demonstrates how subjects constitute themselves as objects of knowledge and eventually as subjects of domination.[13]

Using the toolbox of Foucault and the methods of Critical Discourse Analysis, this chapter will argue that both supportive and reactive discursive practices that preceded and followed criminalisation produced a specific regime of truth about squatting that channelled the debate in specific directions and confined the possibility for resistant voices to emerge. Discourses around the criminalisation will be analysed for their effect not only on criminalisation, but also on the ethics of squatting: indeed it is important to understand to what extent the discourses that aimed at defending squatters from criminalisation have become embedded in the same politics of knowledge and 'truth formations' as those which actually enabled criminalisation. It will be argued that the discursive formations created around squatting by both reactive and supportive actors have captured the resistant potential of the practice and have absorbed it into various political agendas. Moreover, it will be suggested that many activists who tried to resist criminalisation have often found themselves trapped in specific discursive formations. Although this has often been a strategic choice, to a certain extent it had the effect of adjusting and 'normalising' squatters' ethics to the limits of what has been considered 'good' conduct.

Reactive discourses and moral panics

The framework of moral panic is a useful tool to analyse what we have defined as 'reactive discourses' around squatting. Indeed, moral panics are defined as a disproportionate reaction around specific issues, which shifts attention away from the root causes of a problem.[14] Moral panics involve a discourse aimed at raising fear and outrage: not only by appealing to a threat to 'normal' values coming from an alleged outside, but also by means of 'denigration of the transgressive Other'.[15] According to Young, moral panics are not just the product of a simple mistake in rationality and information: they are founded on deep social conflicts around values, class and culture.[16] Moral panic,

12 N Fairclough, 'Critical Discourse Analysis and the Marketization of Public Discourse: The Universities' (1993) 4(2) *Discourse Society* 133–168.
13 M Foucault, *Discipline & Punish: The Birth of the Prison* (2nd Vintage Books edition, Vintage, 1995).
14 Young (n6).
15 Ibid.
16 Ibid.

therefore, can be defined as a rationality, or a discursive technology that has the effect of governing not only by appealing to values, but also through emotions. Moreover, while most of the analyses tend to pay attention to the power exercised by moral panics, we will argue that in the case of squatting these moral panics have been actively resisted and challenged by counter-discourses raised by squatters and activists. For a moral panic to be successful, we contend that it must adhere to the dominant ideological-discursive formation. As Fairclough states, it is usual for one ideological-discursive formation to be hegemonic, whilst other formations may still exist and even proliferate.[17] When the dominant formation achieves a hegemonic position then the background knowledge for that particular formation will gradually become normalised.

England and Wales

With regard to England and Wales it appears clear that the dominant ideological-discursive formation towards squatting is overwhelmingly negative.[18] This is demonstrated by the results of a YouGov poll, which declared that 81 per cent of respondents (out of a total of 1,718) were in favour of a change in the law in order to make squatting a criminal offence.[19] In a study of 235 media stories concerning squatting in eight newspapers from 1 January 2009 until 31 December 2011, it was found that 15 per cent of the stories employed a supportive discourse and 32 per cent of the stories represented a reactive discourse.[20] Squatters were referred to as criminals in 28 occurrences, and explicitly mentioned as foreign in 31 cases (all but one mention being part of a reactive discourse).

In this context, a moral panic was raised by means of several intertwining discourses which operated in unison, and singular examples have been used to draw conclusions on the general character of the squatter population as essentially criminal. The work of Steve Platt demonstrates that this creation of a moral panic around squatting in England and Wales is in fact nothing new, with comparable stories cropping up when the possibility of criminalising squatting was discussed in the late 1970s and 1990s.[21] Platt records that the media prefers to tell an 'individual story rather than providing meaningful social analysis' and thus resorts to describing 'straightforward heroes and

17 N Fairclough, 'Critical and Descriptive Goals in Discourse Analysis' (1985) 9 *Journal of Pragmatics* 739–763.

18 Dee (n6).

19 YouGov Survey 'Do you think the law should be changed making squatting a criminal offence or should it be left as it currently is?' (2011).

20 Dee (n6).

21 S Platt, 'Home Truths: Media Representations of Homelessness' in B Franklin (ed) *Social Policy, the Media and Misrepresentation* (London, 1999).

villains'.[22] The squatter is often constructed as a terrifying other, someone who is foreign, criminal and organised with people in a gang, ready to pounce and to occupy a house when it is left empty for a few hours.[23] In fact, even Mike Weatherley, a Conservative Member of Parliament (MP) and an arch-supporter of the complete criminalisation of squatting in England and Wales, has recently referred to the reports of 'highly exaggerated home invasions in the national papers'.[24]

Under the theory of moral panic as originally outlined by Cohen, every successful panic has three requirements – a suitable victim, a suitable enemy and a general consensus that the values being attacked are embraced by society as a whole and need to be protected.[25] In this particular case, the alleged victims were the decent, law-abiding property owners, the constructed enemies were the squatter and the consensus which was formed was that a change in the law was necessary so as to stop squatters taking more houses.

Through 2011, there was indeed a hysterical chain of stories concerning squatters occupying homes, the *Daily Telegraph* leading the way with its 'Stop the Squatters' campaign. A relevant, specific example is provided by the case of Jason Ruddick who, in early 2011, became the subject of no less than 17 substantial mainstream media stories. In most of the articles Ruddick (and thus, by extension, squatters generally) is portrayed as personifying deviant values which place him in opposition to decent, law-abiding citizens.

The first cluster of articles, appeared in five newspapers on 7 January 2011. The *Daily Mail* published a story titled 'Come over and join in me soft-touch Britain, says the Latvian who traveled 1,500 miles and ended up squatting in a £6m mansion' which recounted how Ruddick and a 'gang of immigrants were squatting in a ten bed Highgate mansion.[26] Other titles were 'Latvian travels 1,500 miles to milk Britain's "soft" laws against squatters' (*Daily Telegraph*),[27] 'SQUAT A CHEEK: 1,500 mile trip to scrounge in "easy touch"

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22 Ibid.

23 For a recent example, take 'Knife-wielding Lithuanian squatters who move in when residents go out' *Daily Mail* (24 September 2010). However, in the case of the cited news story, a rather different slant is put on the whole story by the last line, which reads: 'The Metropolitan Police said it was seeking suspects who are believed to have posed as estate agents to fraudulently sublet properties'. This then suggests that the Lithuanian occupiers were accidental squatters, who had been tricked by malicious criminals, online at: http://www.daily mail.co.uk/news/article-1314526/Knife-wielding-Lithuanian-squatters-residents-out.html.

24 M Weatherley, 'Despite recent attack by violent squatters Mike delivers speech to Sussex students' (2012), online at: http://www.mikeweatherleymp.com/2012/12/07/despite-recent-attack-by-violent-squatters-mike-delivers-speech-to-sussex-students.

25 Cohen (n6).

26 Online at: http://www.dailymail.co.uk/news/article-1344634/Latvian-squatter-Britain-easy-touch-ends-10m-mansion.html.

27 Online at: http://www.telegraph.co.uk/news/uknews/8244715/Latvian-travels-1500-miles-to-milk-Britains-soft-laws-against-squatters.html.

UK' (*Daily Mirror*),[28] 'The £10million home "not good enough" for squatter gang' (*Evening Standard*)[29] and 'Man moves to UK to live for free' (*Sun*).[30] Another cluster of similar stories appeared in March/April 2011 (in the *Independent on Sunday*, the *Sun* and the *Evening Standard*), when Ruddick was reported squatting in the former home of the Congolese ambassador. Notoriously, he was reported to have said: 'This place isn't nice enough for me. I want somewhere posher, with a swimming pool if possible. I want a shower and hot water. But I want to stay in Hampstead. It's a very nice area.'[31] This quotation was then repeated verbatim by Mike Weatherley in the House of Commons debate on the criminalisation of squatting on 30 March 2011.[32]

In all these cases, Ruddick is essentially portrayed as a caricature, a spoof of the typical squatter, fitting snugly into the stereotype held by the dominant ideological-discursive formation. The headlines mentioned make clear that squatting is not something to be taken seriously, but rather to be viewed as a practice which is against a decent community and its moral values. Ruddick is depicted as a folk devil, 'the monster within': not only is the squatter referred to as coming from the 'wild outside' (Eastern Europe) and invading the most private realm (a home), but he is even accused of calling other potential squatters to join his luxury lifestyle at the expense of Britain. As a result, what is being addressed, is not merely the squatter's supposed immorality, but the very British context that provides an opportunity for this to happen. These arguments provide strong tools for politicians to mobilise a need and a desire for action, since 'something must be done' to restore the social and moral norms threatened by squatters.

Netherlands

Similar discourses were also formed recently in the Netherlands, where squatters were portrayed not only as foreigners who pose a threat to public order and to the Dutch democratic values but also violent criminals. A survey indicts that just before criminalisation the Dutch public opinion was not against squatting.[33] Indeed, in the Netherlands there is a strong collective memory around squatting as a social and political movement. Despite many references to the violent confrontations of the 1980s, there is an

28 Online at: http://www.highbeam.com/doc/1G1–245919402.html.
29 Online at: http://www.standard.co.uk/news/the-10m-home-not-good-enough-for-squatter-gang-6553139.html.
30 Online at: http://www.thesun.co.uk/sol/homepage/news/3334365/Man-moves-to-UK-to-live-for-free.html.
31 Online at: http://www.standard.co.uk/news/4m-house-isnt-posh-enough-says-squatter-who-wants-a-pool-6384476.html.
32 *Hansard*, HC Debates, 30 March 2011, col 97WH.
33 Pruijt n9).

acknowledgement of the role of squatters in the struggle for social housing.[34] This framing explains a number of differences between the ideological-discursive formations that emerged in the Netherlands, and those in England and Wales.[35]

However, the broad sympathy for squatters was undermined by the creation of a moral panic, which eventually served to justify criminalisation. While in the 1980 and 1990s, squatting was considered by the authorities to be a viable solution to the housing shortage, from the beginning of the new millennium squatters became an easy target of right wing parties such as the VVD and the Christian Democrats, who concentrated on 'law and order'. Criminalisation of all kinds of minor nuisances and offences was promoted as a preventive strategy, since 'tolerating such misconducts would worsen already existing problems of citizen's safety, security and public disorder'.[36] This new political context provided a fertile ground in which long-standing campaigns against squatting could grow.

The main discourses used by political parties and media to promote criminalisation were that squatters are violent, that squatting attracts many kinds of criminal activities and that squatters are mainly foreigners. As in England and Wales, the discourses that promoted criminalisation cited cases of squatters allegedly breaking into houses which had been left unwatched for few days: 'One man lost his mother's home – where she had lived since she was born – when she was hospitalized for a year'.[37] The discourse is aimed at turning any Dutch citizen into a potential victim, and at motivating feelings of vulnerability and insecurity regarding a possible home invasion.

An important role has also been played by the police, who alleged not only the discovery of an arms cache in a squatted house, but also that squatters threatened the lives of police officers by placing a booby-trap at the door of a squatted building when they were evicted. The discourses of criminalisation (both reactive and repressive) argue that there is a hardening tendency within the squatters' movement. The accusations of violence served to generate a moral panic in which the victim was not only the police but by extension everything that the police is supposed to protect, namely law-abiding Dutch citizens and the security of private properties. These claims were later entirely refuted by the squatters and no evidence has ever been presented by the police.

34 J Uitermark, 'An Actually Existing Just City? The Fight for the Right to the City in Amsterdam', in N Brenner, P Marcuse and M Mayer (eds) *Cities for People, Not for Profit: Theory/Practice* (Blackwell, 2011).

35 Although the struggle for social housing was also a major part of the UK squatters' movement in the 1970s, this history has been forgotten by actors on all sides of the debate in England and Wales.

36 R. Van Swaaningen, 'Public Safety and the Management of Fear' (2005) 9(3) *Theoretical Criminology* 289–305.

37 Online at: http://www.dutchamsterdam.nl/911-amsterdam-squatting-banned.

The 'weapons cache' was nothing more than a collection of items including a baseball bat and an air pistol, but once mentioned the slurs concerning violence and criminal activity became a stable feature in the repressive and reactive discourses around squatters.[38]

Contrary to England and Wales, in the Netherlands repressive and reactive discourses went hand in hand, as the arguments of politicians against squatters either reinforced, or have been reinforced by, the discourses of the media. In order to unpack both the repressive and reactive discourses, it is important to refer to the major arguments contained in both the 'Black book on Squatting' (*Zwarte Boek Kraken*, henceforth ZBK) published by the Dutch Liberal Party VVD,[39] and the 'Explanatory Memorandum' to the anti-squatting bill written by Ten Hoopen (Christian Democratic Appeal), Slob (ChristenUnie) and van der Burg (Liberal Party).[40] The 'Explanatory Memorandum' blames squatters for the fact that many buildings are in a state of decay, further likening squatters to a virus that infects healthy property:

> The presence of squatted buildings is often accompanied by a lot of disturbance and degradation . . . This has an impact on surrounding properties. The quality and value of the surrounding housing decreases, with the result that the quality of life in the neighbourhood is affected.[41]

The 'Explanatory Memorandum' also argues that squatters and their motives have changed in recent decades.[42] According to the document, the problem of housing shortage no longer exists. Therefore, on this logic, contemporary squatters are not fighting for social goals but would rather squat to live rent free. In line with the right-wing politicians who wrote the 'Explanatory Memorandum', both the ZBK and the mass media portrayed squatters as freeloaders who cheat the rules to get a house sooner than they deserve: in the words of an article about squatting in Amsterdam, squatters are 'shady and unsavoury characters who appear[ed] to be more interested in getting a free ride than in helping to provide much needed rental property'.[43] Moreover,

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38 F van Gemert, R Visser and D Dadusc (eds), 'Kraken in Amsterdam; Dubbele Observatie Revisited' (2010) 1 *KWALON* 7.

39 B Van 't Wout, *Zwartboek Kraken*, VVD Fractie Amsterdam (2008). Online consultation at: http://www.nmoh.nl/fileadmin/user_upload/images/Kennisbank/leegstand_en_kraak/08.11.18_20Zwartboek_20kraken_20definitief_20_BW__1_.pdf, Zwarte Boek Kraken online at: www.vvdamsterdam.nl/files/14b6f66fd1ca1. This is not based on empirical evidence, and it does not make reference to any verifiable fact, as noted in F van Gemert, D Siegel, R Visser, D Dadusc and C Brouwers (eds) *Kraken in Amsterdam anno 2009* (Vrije Universiteit, 2009).

40 'Explanatory Memorandum Proposal' *Tweede Kamer* 07/08, 31 560 nr. 3, online at: https://zoek.officielebekendmakingen.nl/kst-31560–3.html.

41 Ibid.

42 Ibid.

43 Online at: http://www.dutchamsterdam.nl/555-squatting-in-amsterdam.

the ZBK claimed that squatters also seized luxury apartments in the city centre: 'not only do they take over the social allocation list, but they also live where everybody would like to live, but then without paying the rent'.[44] The ZBK suggests squatters take what does not belong to them and act unfairly by moving ahead of other people on the queue for allocation of housing.

Another repressive/reactive discourse is the fear of 'the other', mobilised through a language evoking wars against enemies to be fought, and referring to 'barbaric foreigners' from South and East Europe who 'invade' the Netherlands. Although international squatters have always been an important component of the movement,[45] this discourse implies that there was a golden age of the Dutch squatters' movement, which has now been ruined by foreign squatters: 'Squatting used to be idealistic, but now is overshadowed by international squatters who come here for mayhem', said Anchor of the Christian Union.[46] The argument here is that foreign squatters undermine the foundation of the Dutch polder model and the social compromise that characterised the Dutch way of dealing with squatters. Moreover, it assumed that the conduct of foreign squatters threatens the social fabric of the Netherlands, since they not only 'steal houses', but also represent a way of life that is morally unacceptable: 'they are lazy, they smell, and their women do not even shave their legs'.[47] Just as in England and Wales, the moralising technique consists in stigmatizing squatters as 'the monstrous other', and in turning political activists into threats to democracy. These xenophobic and racist discourses argue that 'something has to be done' in order to protect social and moral order and that criminalisation would serve as a barrier to these otherwise uncontrollable invasions.

England and Wales and the Netherlands: common threads

In both England and Wales and in the Netherlands, the practice of squatting was seen as a problem which needed to be solved. Indeed, in the Netherlands the laws that eventually criminalised squatting fall under 'crimes against public order' and in England and Wales, the Ministry of Justice entitled its

44 Zwartboek Kraken, online at: www.*vvdamsterdam.nl/files/14b6f66fd1ca1*.
45 L Owens, *Cracking under Pressure: Narrating the Decline of the Amsterdam Squatters' Movement* (Penn State, 2009).
46 'In the past squatters often renovated the buildings they moved into, but in recent years many squatted homes were wilfully destroyed' *Elsevier* (2 November 2007). This is mirrored by the statement of Brighton Council's then Housing Minister, who commented in the *Argus* in 2010: 'Unfortunately, the romantic notion of the squatter who inhabits a property that would otherwise stand around empty, even makes improvements to the property and leaves for the next empty home without costing anyone anything, has long since disappeared', online at: http://www.theargus.co.uk/opinion/letters/8474001.Diddly_squat.
47 R van de Griend, 'Uitvreters! Squaterski en okupas slopen de kraakscene', *Vrij Nederland* (9 July 2005).

consultation paper on squatting 'Options for Dealing with Squatters'.[48] The question posed in this repressive discourse was how to solve 'the *problem* of squatting', rather than how to engage with the estimated 20,000 squatters (this unsubstantiated figure supplied in the consultation is if anything lower than the reality), thereby taking for granted the assumption that squatting is a problem rather than a widespread practice with varied social and political purposes.[49] In the Netherlands the new legislation, named *Wet kraken en leegstand* adopted the political term *kraken*.[50] The juridical language explicitly criminalises a political action (*kraken*), but attempts to omit and dismiss the political aspect of squatting by turning protest and resistance into 'common' criminal actions.

Cohen analyses the conditions in which moral panics are able to work and suggests that there at least three: namely legitimating values, moral enterprise and power.[51] In the process of criminalising squatting, the mobilised values were the right to private property, the violation of the rules of so-called 'common decency' and 'normal conduct' and the respect for police authority. The appeal to these values has been allied to the belief that criminalisation would put a stop to squatting, thereby protecting and re-establishing moral and social order. As much in the Netherlands as in England and Wales, the moral panic surrounding alleged home invasions and foreign squatters helped to create an atmosphere in which something had to be done, to protect the security of the local communities from violent enemies, to contain the 'barbaric invasion' and to prevent any threat to moral values and 'decency'.

The moral enterprise was directed in the first place by right-wing politicians who made statements about the supposedly criminal nature of squatters in order to sustain their campaign regarding law and order, and to attribute internal problems to the threat from outsiders, namely the multitude of foreign squatters invading private properties; in the second place it was mobilised by the mainstream media, who did not miss an opportunity to embrace and report

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48 Ministry of Justice, *Options for Dealing with Squatters* (UK Government, 2011).

49 In a previous consultation paper, in 1991, the Government's position was stated as follows: 'There are no valid arguments in defence of squatting. It represents the seizure of another's property without consent', Home Office, *Squatting: A Home Office Consultation Paper* (UK Government, 1991).

50 The practice of squatting in the Netherlands began as a social and political movement between 1965 and 1975. It was during this period that the technical term *bezetten* ('occupying') was adapted to *kraken*, literally 'to break-open', a term taken from Amsterdam slang. This different language has been adopted to characterise squatting as an organised form of protest. Therefore when referring to *kraken*, Dutch citizens, the media and politicians were directly referring to a collective political action. See E Duivenvoorden, *Een voet tussen de deur: geschiedenis van de kraakbeweging (1964–1999)* (Amsterdam, 2000); J Uitermark, 'The Co-optation of Squatters in Amsterdam and the Emergence of a Movement Meritocracy: A Critical Reply to Pruijt' (2004) 28(3) *International Journal of Urban and Regional Research* 687–698.

51 Cohen (n6).

these discourses uncritically, to create scandals and to express disgust at squatters' 'abnormal' lifestyles.

Power was exercised through the knowledge that these repressive and reactive discourses produced around squatting, specifically through the construction of a regime of truth where all other possible discourses are dismissed, and where criminalisation becomes the natural response not only for controlling, containing and repressing the squatters, but also for the protection of democratic values. The overall discourse left unspoken and untouched the underlying causes of housing shortage, such as speculation, housing policy and gentrification. Moreover, these discourses mobilised not only moral values but also emotions such as fear, outrage and a sense of injustice against the squatters.

Whilst these dominant discourses are framed as rational, technical and objective, the discourses that resist criminalisation are labelled as irrational, emotional and politically biased. In the next section the interplay between these discourses and politics will be analysed.

Supportive and resistant discourses

Despite the campaigns that criminalised squatting and the widespread moral panic, both in England and Wales and in the Netherlands counter-discourses were also present, defending squatters or actively resisting the proposed criminalisation. Here, the two case studies diverge: in England and Wales, the most popular supportive discourse concerned the vulnerability and homelessness of the squatter population,[52] thereby flattening a political matter of contention into a humanitarian problem. In the Netherlands, supportive discourses tended to frame squatters as informal providers of cultural and social spaces, thereby referring to a practice of resistance as the provision of services which the government is unwilling or unable to provide.[53] In both cases, there is also an underlying moral argument concerning vacancy which claims that empty spaces should be put to productive use. Both in England and Wales and in the Netherlands, the discourse of the 'good' squatter who occupies a house, pays his or her bills and gets on with the neighbours whilst providing something of benefit to the community was also present.

However, these discourses entail a danger. An ideal type of conduct is presented for the 'good squatter', therefore delineating a clear moral distinction, with 'good squatters' making the neighbourhood more secure or more attractive and 'bad squatters' conforming to the stereotypes discussed

52   SQUASH, House of Lords Briefing Paper – Opposition to Squatting Criminalisation: Legal Aid, Sentencing & Punishment of Offenders Bill (Clause 130) (2012), online at: http://www. squashcampaign.org/docs/LASPO_Lords_Brief-SQUASH.pdf.
53   Uitermark (n50).

earlier. We will argue that these positive and supportive discourses may have been enforcing a distinction between those practices which are acceptable and those which should be repressed (therefore setting boundaries regarding the legitimation of squatters and squatted projects). The next section, will see how these discourses were mobilised, what effects they produced and how they have been intertwined with both reactive and resistant discourses.

England and Wales

In illustration of supportive discourses towards squatters in England and Wales, stories in the *Sun* ('Squatters refurbish mansion')[54] or the *Daily Mail* ('Squatter moves into "Eyesore Cottage" and turns it into a dream home . . . and villagers want him to stay')[55] provide good examples. Reclaimed gardens such as the Grow Heathrow Project, Common Ground in Reading and the Lewes Road Community Garden in Brighton generally receive a positive depiction in the mainstream media. However, such stories tend to be isolated cases, which do not challenge the broader picture since by showing that 'not all squatters are bad' it is suggested implicitly that most squatters are actually bad. In the previously mentioned data analysis of media stories concerning squatting, 15 per cent of the stories (out of a total of 235) deployed this discourse.[56] These supportive discourses were themselves responding to reactive and repressive discourses, which tended to be voiced by the mainstream media and the state, respectively. The consultation paper *Options for Dealing with Squatters* received 2,217 responses, of which 1,990 were received via the pro-squatting campaign group SQUASH (Squatters' Action for Secure Homes).[57] These responses were immediately discounted in the report, which stated:

> While we recognise that the statistical weight of responses was there-fore against taking any action to deal with squatting, it is important that the views of other individuals and organisations are reflected in the sum-mary of responses – even if in percentage terms, they are minority views'.[58]

Yet in the breakdown of respondents, the category of 'Victims of squatting (individuals and organisations)' had just 10 members.

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54 'Squatters refurbish mansion' Sun (15 July 2009), online at: http://www.thesun.co.uk/sol/homepage/news/2537935/Squatters-refurbish-3million-mansion.html.
55 'Squatter moves into eyesore cottage' *Daily Mail* (20 January 2011), online at: http://www.dailymail.co.uk/news/article-1348665/Squatter-Bill-Davies-turned-Eyesore-Cottage-dream-home-faces-eviction.html.
56 Dee (n6).
57 Ministry of Justice (n48).
58 Ministry of Justice, *Options for Dealing with Squatters – Response to Consultation* (UK Government, 2011).

On the other hand, all the major homelessness charities (Crisis, Thames Reach, Shelter, Homeless Link, Housing Justice, St Mungo's), High Court Enforcement Officers, the Metropolitan Police, the Criminal Bar Association and the Law Society opposed changing the law.

SQUASH has produced several documents concerning criminalisation which include a House of Lords Briefing Paper and a paper discussing the actual costs the implementation of the law would entail, namely 'Can We Afford to Criminalise Squatting?'[59] In the Briefing Paper, the three key tenets of the SQUASH campaign were clearly stated. Made as media friendly soundbites, they stated that a change in the law was unnecessary, unenforceable and unaffordable.[60] With these three points, SQUASH aimed to sidestep the right-wing focus on squatters as dangerous or threatening and to spotlight instead both the attack on the homeless (appealing to the moral code which states people should take shelter if they need it) and the costliness of implementing any change in the law.

Whilst it was important for the squatters' movement to remain connected to homelessness charities in presenting a united front of opposition to a change in the law, the discourse of vulnerability led to its own difficulties. Whilst all squatters are technically homeless, being of No Fixed Abode, and material need for shelter is one of the primary drivers, there are many forms of homelessness and people squat for a variety of reasons. The danger for activists lay in prizing this discourse above others since it could lead to the de-politicisation of the practice of squatting. Further it allowed the obvious right-wing response, which was to claim that the squatters and the homeless were two very different communities.

The emphasis on homelessness and vulnerability was replicated also in the academic field, where squatters are often pictured as a disproportionately vulnerable population. This discourse assumes not only that squatters are an homogeneous population, but also that all squatters are problematic types of homeless people.[61] However, the work of Kesia Reeve and Sarah Coward concerning homelessness and squatting declares that:

59 SQUASH, Can We Afford to Criminalise Squatting? A Full Cost Analysis of the Criminalisation of Squatting, under Clause 136 of the Legal Aid, Sentencing and Punishment of Offenders Bill (Self-published, 2012), online at: http://www.squashcampaign.org/docs/ Can_We_Afford_To%20Criminalise_Squatting%3F-SQUASH-March2012.pdf; SQUASH (n52). At the time of writing, SQUASH has just released a third document, The Case against Section 144, online at: http://www.squashcampaign.org/repeal-law/the-case-against-section-144–2.
60 SQUASH Can We Afford to Criminalise Squatting?, ibid.
61 Indeed, the original call (since adjusted) for the workshop for which this paper was originally written stated that: 'Squatters, as a population, are disproportionately vulnerable: research has shown that they are often homeless, former prison populations, alcohol dependent and with mental health problems'.

> very little is known about squatting as a homeless situation: despite the relatively high incidence of squatting amongst the homeless population, there is virtually no evidence, awareness, or understanding about the nature and extent of squatting, nor about the situations, profile or experiences of homeless people who squat.[62]

In a recent Early Day Motion calling for the criminalisation of squatting in commercial property, Mike Weatherley offers the opinion that 'this House is aware of the huge distinction between the homeless who need our assistance and squatters who choose to occupy property without permission as a lifestyle preference'.[63] Previously, during a talk to the Conservative Society at the University of Sussex, Weatherley also stated:

> The idea that these individuals – talented, web-savvy, legally-minded – have anything whatsoever in common with the rough-sleeping troubled souls who need real help is highly insulting to vulnerable addicts. Rough sleepers do not have the resources to print out squatters' rights notices from the internet and stick them on front doors.[64]

Therefore, Weatherley entirely separates the homeless from those who occupy empty buildings, in order to counter both the charge that criminalisation was attacking the vulnerable and the moral argument that people who desperately need shelter should be able to take it. The latter is a powerful discourse, which most people appear to have a certain sympathy for and thus Weatherley would rather target what he terms 'lifestyle squatters'.

The Squatters Network of Brighton and squatters writing for independent media such as *SchNEWS* and brighton.squat.net have consistently rejected Weatherley's arguments.[65] According to them, the sharp separation between squatters and the homeless would appear ludicrous: whilst there are certainly differences between rough sleepers and squatters, the criminalisation of

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62 K Reeve with S Coward, *Life on the Margins: The Experiences of Homeless People Living in Squats* (Crisis/Countryside Agency, 2004).

63 M Weatherley, 'Commercial Squatting' Early Day Motion 912 (2013).

64 'Despite recent attack by violent squatters Mike delivers speech to Sussex students' (personal website, 2012): Weatherley (n24). This talk was held in secret having been cancelled on the original date when a large number of students objected to Weatherley's presence on campus. Online at: http://www.theguardian.com/society/2012/nov/14/conservative-mp-attacked-rocks-squatting; http://www.independent.co.uk/student/news/protester-cleared-of-threatening-behaviour-for-calling-hove-mp-a-coward-8937208.html.

65 Anonymous1, 'Facing up to Mike Weatherley's fearsome gauntlet' (2011), online at: https://brighton.squat.net/?p=167; Anonymous2, 'Squatting and Tory Truth – A "chat" with Mad Mike' (2012), online at: https://brighton.squat.net/squatting-and-tory-truth-a-chat-with-mad-mike; Anonymous3, 'Treacherous Weatherley: EXschCLUSIVE – anti squatting MP for Hove Mike Weatherley exposes himself' *SchNews* 800, 2011.

squatting in residential buildings affected them all. One of the first people to be convicted for the new offence of squatting was a Polish rough sleeper[66] and, tragically, a homeless man froze to death outside a derelict house in Kent, having been threatened with arrest if he entered the property.[67] However, the implications of Weatherley's discourse, which he has repeatedly evinced, go further: whilst it betrays a patronising view of homeless people, typecasting them as vulnerable addicts who are unable even to use a printer, it also demonstrates that the law is addressed at the politically organised practices of squatting.

Squatters are aware of this line of attack and have been for some time. Sam from *Squall Magazine*, interviewed over 25 years ago for the book *Not for Rent,* comments that 'there have been accusations that squatting is a lifestyle choice rather than a reaction to housing needs. Tory politicians spout this one, so the squatters' movement has veered away from it'.[68] She agrees that her various privileges make her situation different to that of rough sleepers, yet also argues that 'I don't want to pay rent to a rip-off landlord, I don't want to work in a shitty job so that I can afford to pay rent. I want to do things that don't earn me money'.[69]

Reeve sees the squatters' movement as a 'movement of the materially disadvantaged, seeking to achieve social welfare goals in a context of housing need'.[70] If shelter is actually a primary factor for all those who squat, other political or cultural needs tend to come very much second to that first material need, albeit in complex, ever-different ways for each individual and collective. Indeed, as Victoria Blitz puts it in a widely spread blog post, 'squatting is both a means and an end, and the ways that different individuals and groups put squatting into practice varies enormously'.[71]

Thus, we have seen that the positive framing of squatting in England and Wales often relies upon stating the squatters are vulnerable and need to be protected, or are 'good squatters', conforming to conventional ideas about how

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66 'Polish immigrant jailed for squatting after refusing to leave house when told to by police'*Daily Mail* (5 Feb 2013), online at: http://www.dailymail.co.uk/news/article-2273701/Polish-immigrant-jailed-squatting-refusing-leave-house-told-police.html.

67 'Homeless man Daniel Gauntlett dies frozen on doorstep of empty bungalow in Aylesford' *Kent Online* (1 March 2013), online at: http://www.kentonline.co.uk/kent_messenger/news/2013/february/28/frozen_man.aspx.

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68 S Wakefield and Grrrt, *Not for Rent – Conversations with Creative Activists in the UK New York* (Evil Twin, 1995).

69 Ibid.

70 K Reeve, 'De Britse kraakbeweging, 1968–1980' ('The UK Squatters' Movement, 1968–1980') in *Kritiek – Jaarboek voor Socialistische Discussie en Analyse 2009*, 135–157 (English version kindly supplied by author) (2009).

71 V Blitz, *Our Society is Bigger than Yours: Squatting and the Wider Political Rumblings* (Critical Legal Thinking, 2011), online at: http://criticallegalthinking.com/2011/06/27/our-society-is-bigger-than-yours-squatting-and-the-wider-political-rumblings.

one should behave as a decent member of society. Other discourses, such as the broader critiques of private property or of social relations within the capitalist mode of production, were seldom raised although present (as shown by the quotation from Sam Squall above). Blitz argues that squatting could be seen as David Cameron's much-vaunted Big Society in action and sees it 'as a resource by which to negate the system that is causing us so many problems, and simultaneously demonstrate alternatives'.[72] Here, in nuanced terms, Blitz is making the point that some squatters are politically motivated and clearly want to change society by challenging the primacy of property ownership. Such a viewpoint completely contradicts the dominant ideological-discursive framework, which supports the inviolable right to private property and views squatting as nothing more than theft.[73]

The Netherlands

In the Netherlands, the law which criminalised squatting is concerned with the movement that uses squatting as a tool for resistance. Differently from England and Wales, Dutch discourses did not produce an overlap between so-called vulnerable 'homeless' squatters and political/lifestyle squatters. Instead of mentioning homelessness, the discourses which defended squatters drew the attention to housing shortage and to the abundance of vacant premises. In the light of the government's inability to provide housing for all, squatting was considered a tolerable, practical solution for youths, artists and students to resolve their own hands their housing needs and a tool to make use of empty, abandoned and unproductive spaces.[74] In May 2006, when the squatting ban (*kraakverbod*) was already on the political agenda,[75] the mayors of the four main Dutch cities (Amsterdam, Rotterdam, The Hague and Utrecht) wrote a letter to Minister of Housing, Sybilla Dekker. In this letter they suggested that large cities are adversely affected by vacancy, commenting 'if the plans of the Minister will continue, then it will damage the municipalities in their fight against vacancy'.[76] Minister for Administrative

72 Ibid.
73 In answer to the question of why this argument was not more prevalent, it is perhaps worth noting a response from a comment on Blitz's blog post, who remarks that 'people banging on about the system are using arguments that have little resonance outside the anti-capitalist ghetto' and further that 'the insistence on a political dimension is going to alienate people within the squatting movement, because people have a right not to conform to that agenda, and you are going to need those peoples [sic] help'. So even within the movement this was judged as debatable in terms of effectiveness.
74 Online at: http://www.parool.nl/parool/nl/6/WONEN/article/detail/160066/2009/02/10/Raad-van-State-vindt-kraakwet-slecht.dhtml.
75 Promoters of the bill were: Christian Democrats (CDA), the liberal Dutch party (VVD) and the hard-right Lijst Pim Fortuyn (LPF).
76 Online at: http://www.nu.nl/algemeen/742490/grote-steden-tegen-verbod-op-kraken-video.html.

Reform Alexander Pechtold (D66) stated that the national government should not interfere with local policies on squatting; his argument being that municipalities should be able to establish their own policies, as squatting might have a positive impact on local areas.[77] Likewise, many neighbourhood and tenants' associations also raised their voices to counter the criminalisation of squatting and placed the focus instead on the lack of affordable houses.[78]

In other words, squatting had often been considered a useful practice and the primacy of housing rights over private property rights was not contested as such. The main resistant discourse was that squatters have an important role in fighting vacancy and forcing owners to use their properties. Interestingly, the law which criminalised squatting is named *Wet Kraken en Leegstand* (Squatting and Vacancy Bill). This indicates that the vacancy argument has been heard, yet incorporated only in the title of the new law. There is no further reference to the regulation of emptiness.

Another line of defence for squatters was the importance of free spaces for artists. From the end of the 1990s onwards, Amsterdam City Council's *Broedplaatsen* (Breeding Places) policy allocated €41 million for subsidising between 1,400 and 2,000 living/working spaces for artists and cultural entrepreneurs.[79] Many evictions were halted and some squats were legalised and turned into cultural centres. Many squatters found compromises with the owners and the Council, renting or buying for low prices the spaces they already occupied.[80] According not only to academics such as Justus Uitermark[81] but also to many squatters and activists,[82] this policy led to the absorption of parts of the movement into providers of cultural services, which contributed to the image of Amsterdam as a 'creative city' and 'helped to co-opt and to prevent resistance against policies that seek to promote gentrification'.[83] Promoting and subsiding squatters as 'creative entrepreneurs', captured and redirected practices of resistance into a productive frame for urban planners and for a marketing campaign aimed at branding Amsterdam as a 'Creative Knowledge City'.[84] Moreover, according to Uitermark, this trend

77 Online at: http://www.nu.nl/algemeen/750453/kraken-wordt-strafbaar-video.html.
78 Online at: http://www.steunpuntwonen.nl/; http://www.huurders.info/; http://www.wswonen.nl/; http://www.sash.nl/.
79 Online at: http://www.amsterdam.nl/gemeente/organisatie-diensten/bureau-broedplaatsen.
80 J Uitermark, 'Framing Urban Injustices: The Case of the Amsterdam Squatter Movement' (2004) 8(2) *Space and Polity* 227–244.
81 Ibid.
82 D Dadusc, 'Breaking doors to fix broken windows: an ethnographic study on squatting in Amsterdam' (Unpublished MA thesis, 2009).
83 J Uitermark, 'An In Memoriam for the Just City of Amsterdam' (2009) 13(2–3) *City* 347–361.
84 M Oudenampsen, 'Extreme Makeover' *Mute* magazine (2006), online at: http://www.metamute.org/editorial/articles/extreme-makeover

led to the emergence of a 'movement meritocracy',[85] a distinction being drawn between those forms of squatting considered useful for urban growth and those which could be eliminated.

Despite the problematic implications of the official arguments aimed at defending squatters, many activist discourses aimed at resisting criminalisation have strategically picked up the same language, arguing that squatting is a useful solution to problems of vacancy, to housing shortage and to the lack of creative spaces for artists. When the criminalisation of squatting became a serious threat, a group of squatters started a campaign based on a petition.[86] Moreover, in response to the *Black Book of Squatting* written by VVD politicians, squatters published the *Wit Boek Kraken* (White Book of Squatting, henceforth WBK).[87] Although both the petition and the WBK were not supported by the whole movement, these documents contain a synthesis of the multiplicity of discourses that have been mobilised by squatters to resist criminalisation. Analysis of these discourses is important for understanding how squatters themselves have framed their struggle and how the interplay between positive and negative discourses has been used tactically.

First, the petition argues that squatting has many advantages and that due to the lack of housing and the abundance of vacant premises, squatting is a useful practice to turn the latter into use. Drawing on Pruijt's five typologies of squatting, both documents argue that squatting is important for: (1) providing housing for people with acute housing shortage; (2) functioning as an alternative housing strategy; (3) serving as a political tool; (4) creating social meeting places that stimulate new cultural and social initiatives; (5) for protecting monumental buildings from demolition.[88] A second, more juridical argument contained in the petition refers to International Conventions and the Dutch Constitution,[89] stating that the fundamental right to housing is a more important right than the right of property owners. Although these arguments are certainly informed by anarchist politics, here they are framed by addressing the question of how squatting can be useful to urban authorities and by appealing to juridically granted human rights.

Although many collectives of squatters embarked upon this trajectory as a practical strategy to preserve not merely the juridical, but the actual, right to squat, the unintended consequence has been that many resistant discourses have been trapped into a production of knowledge imposed upon squatters, and resistant practices have been channelled and captured into a normalised

85   Uitermark (n80).
86   Online at: http://www.kraakpetitie.nl/lees_de_petitie_tekst.htm.
87   T Combrink et al, *Wit Boek Kraken* (Papieren Tijger, 2009).
88   H Pruijt, 'The Logic of Urban Squatting' (2012) *International Journal of Urban and Regional Research* 19–45.
89   Article 11 of the 'International Covenant on Economic, Social and Cultural Rights' (ICESCR); Article 31 of the 'European Social Charter' (ESH) and Article 9 of the 'Maastricht Guidelines'.

field. In order to be listened to, squatters have had to engage with the languages spoken against them by external actors, instead of telling their own story. Moreover, in the arguments resisting criminalisation little attention is given to xenophobic discourses, which claimed that the alleged squatting problem was strictly linked to the presence of unruly foreigners. Neither mentioning nor contesting these specific discourses has perpetuated and enabled the process of 'othering',[90] a technique which had a strong role in raising the moral panic and in legitimising criminalisation.

In this context the *Wit Boek Kraken* was intended to 'break open the debate' around squatting.[91] The overall aim of the different groups which participated in the project was to show how squatting works in practice, documenting successful projects and their political backgrounds. The book follows a path similar to the petition, but opens a space for more in-depth discussion of squatting as a tool for resistance, as an act of protest and as a social movement. Particular attention is given to the struggle for social housing, as well as the misbehaviour of speculators and housing associations. Moreover, the stereotypes contained in the ZBK are analysed and challenged.

Besides the petition and the WBK, many groups have actively resisted criminalisation, not only by appealing to the 'supportive' discourses, but by formulating both resistant discourses that challenge the official discourses, and a broad critique of the social, economic and political relations in which criminalisation takes place. Some discourses turned around the 'right to the city' and analysed processes of urban dispossession through corporate projects, housing policies, speculation and so-called 'urban revitalization' plans.[92] Other resistant discourses, which can be synthesised by slogans such as *Speculation is the crime*, or *I do not pay, why do you?* provide a stronger critique to the relations of power which define what is 'normal conduct' and what is 'deviance'. Yet these discourses have not been brought forward as possible arguments to resist criminalisation, remaining confined within the fields of independent media and thus are not able to be told or heard outside of the movement.

Slogans used at demonstrations, such as *Jullie Wet Niet De Onze* (Your Laws are not Ours), *Wet of Geen Wet, Kraken Gaat Door* (Bill or Not, Squatting Goes On) or Whatever They Say, Squatting Will Stay (original in English), demonstrate that some groups of squatters have willingly attempted to speak a different language and to oppose the criminalisation process, in order not

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90 Thanks to Alex Kemman, activist and student studying for an MA in Global Criminology (Utrecht University) for bringing this fundamental point to our attention.
91 T Combrink, *Wit Boek Kraken* (Papieren Tijger, 2009).
92 D Harvey, *Rebel Cities: From the Right to the City to the Urban Revolution* (1st edn, Verso, 2012); H Lefebvre, *The Urban Revolution* (University of Minnesota Press, 2003); D Mitchell, *The Right to the City: Social Justice and the Fight for Public Space* (1st edn, The Guilford Press, 2003).

to give relevance and legitimacy to its discourses. Yet the voices of squatters who refused to follow the dominant lines of reasoning and who have been more interested in examining the intrinsic power relations which lead to a conflict around squatting have not generally been considered worth hearing and have been left out of the debate.

As a final point, other groups refused to produce a discourse and remained silent.

The right to truth?

Ideological-discursive formations which supported squatters had the effect of co-opting a practice of resistance into a service that the state or urban government was unable to provide (the Netherlands), or of taking squatters as 'vulnerable demons' that should be helped, rather than criminalised (England and Wales). The interesting aspect of these discourses, is that they might exercise a stronger power in relation to the practice of squatting itself than the reactive discourses. Indeed, it is important to pay attention to the power that discourses have exercised not only on the public opinion, but also on the practice of squatting itself. While most of the resistance to criminalisation has been directed towards challenging reactive discourses, the supportive ones have been embraced uncritically: while reactive discourses can be contested by presenting a different reality, the voices that resisted criminalisation could not afford to challenge the 'positive' definitions imposed by supportive discourses. Both reactive and supportive discourses therefore attempt to produce a specific regime of truth around squatting.

If the discursive practices around squatting produced a definition of squatting and of squatters, then an important political task is to deconstruct this definition in order to refuse it, to take distance from it and to build practices of resistance aimed at producing different discourses that will evade those imposed by the authorities and the media, creating a new language, new concepts and new subjectivities. Consequently, some questions could be raised, asking whether supportive discourses have produced a specific 'squatter subjectivity' and have also affected the means to resist criminalisation: To what extent have resistant discourses been trapped in the fields of the discourses and statements acted upon them? To what extent they have they been able to raise a different voice, a different perspective, and to bring forward their own story?

If the discourses aimed at criminalising squatting have been appealing to, and motivated by, a fear of anything that deviates from the normal, supportive discourses have attempted to 'normalise' squatting, since every discourse aims to counter the arguments of the one it speaks against. Thus many squatters that aimed to resist criminalisation have attempted to reduce their practices to 'acceptable' levels of normality, instead of valorising their 'abnormality' and

challenging the politics of normality acted upon them. Abnormality itself can become a strength, a weapon, a tool that provokes scandal, raises questions, challenges the regimes of truth and makes visible the invisible. It is a means to refuse and also reshape reactive discourses. Abnormality can be used to show that something different is possible, or, to frame it in the words of a group of squatters (De Valreep Collective) based in Amsterdam, 'to make the impossible possible'.[93]

If negative discourses exercised a power of 'domination', then supportive ideological-discursive formations might exercise a power of normalisation. While reactive discourses exercise their power by excluding and marginalising squatters as the 'transgressive others', supportive discourses include squatting and try to steer it towards a 'normality' that can be productive for specific political agendas. This technique can be defined as a political economy of *abnormalities* that does not work by means of repression, but by putting *abnormalities* to work. In Foucault's words: 'the problem then is not about people's fondness for illegality, but about the need that power has to own illegalities, to control them, and to exercise its power through them'.[94] The political task ,therefore, is not to normalise oneself, but to change the politics and technologies of normality that define the fields of possibilities for modes of life, social relations, legal and actual rights. This is no easy task, but although they have not been brought to the fore in the discourses that resisted criminalisation, we have seen that these resistant voices are present within the squatters' movement.

Conclusion

In both the Netherlands and England and Wales, squatting is now crim-inalised. Critical criminology defines criminalisation as the process by which certain people and groups are harassed by law 'in an attempt to define their activities as criminal, rather than political',[95] so that action aimed as challenging or subverting the relations of power at stake can eventually be treated by means of criminal law.[96] Our analysis of the criminalisation of squatting has shown that a crime is defined as such by those who exercise the power to define certain actions and behaviours as criminal. We have seen how this criminalisation has been performed and played out on multiple

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93 Online at: www.devalreep.org.
94 Foucault (n13).
95 IR Taylor, P Walton and J Young, *The New Criminology: For a Social Theory of Deviance* (Routledge, 1973).
96 P Scraton, *Law, Order, and the Authoritarian State: Readings in Critical Criminology* (Open University Press, 1987); P Scraton and K Chadwick, 'The Theoretical and Political Priorities of Critical Criminology' in E McLaughlin, J Muncy and G Hughes (eds) *Criminological Perspectives Essential Readings* (2nd edn, Sage Publications, 2003).

levels, including not only the legislative but also the discursive and moral fields.

We have shown that reactive discourses circulating around the criminalisation of squatting raised a moral panic, aimed at promoting a discourse based on fear: they turned the squatter into a monster. This diverted the attention from the social and political dynamics of a movement making use of empty property. The de-politicisation of the practice, and the focus on the allegedly criminal character of squatters legitimised state and police intervention against squatting as control of criminal acts, rather than as repression of resistance. The repressive and reactive discourses reflected an ideological-discursive formation which was set against the practice of squatting. In England and Wales, this formation was clearly dominant and a moral panic which focused on squatters as home-stealers and foreigners enabled the Conservative/Liberal Democrat Coalition Government to push through the criminalisation of squatting in residential buildings.[97] In the Netherlands, where public opinion was split and different ideological-discursive formations competed for primacy, the criminalisation of squatting has been legitimised by xenophobic discourses that raised moral panics and led to the framing of squatters as a threatening 'other'.

We have also argued that the discourses of politicians, of the mainstream media, of experts and of official organisations have the 'right to truth', in the sense that what they pronounce is considered capable of truth (objective and technical), as it reflects the dominant ideological-discursive formation in each country. While the statements deployed by politicians, mainstream media and official organisations are assumed to be objective, impartial and 'scientific', the counter-arguments which do not conform with dominant discourses have been dismissed as subjective, politically biased and emotional. Thus, resistant voices are excluded and are not considered capable of 'truth'.[98] Those who wanted to pronounce something different, therefore, had to accept the challenge of direct confrontation. Resistant discourses of squatters that attempted to avoid being channelled and normalised had the effect of antagonising politicians, of provoking the hostility of the public opinion or even of risking punishment.

Yet criminalisation in the statute book is one thing, the reality is somewhat different. It seems unlikely that squatting will stop. On the contrary, with the two main drivers for squatting being material need and political action to criticise housing policy, it seems clear that squatting will continue. Indeed, despite criminalisation, people in England and Wales have not stopped squatting, they are either staying silently in residential buildings or occupying

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97 To examine why squatting was not criminalised completely would require another chapter.
98 In illustration of this, Mike Weatherley commented: 'Squatters should not be allowed to peddle their myths', online at: http://www.theargus.co.uk/news/10269294.Anti_squatting_ MP_to_report_web_claim.

non-residential buildings. In the Netherlands, for a period of time, the fear of the new law stopped people from squatting. However, juridical battles between the squatters and the state have set a strong limit to the power of the law and of the police, and a number of experiences in different cities have enabled squatters to understand how the new law works and how it can be evaded. Thus resistant practices are emergent and still forming as a response to recent events, and squatting now takes place on a regular basis again. In both England and Wales and the Netherlands, the battle over criminalisation has been lost, yet squatting continues. Squatters are still resisting the truths imposed upon them, showing that what is not permitted is still possible.